IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 412 OF 2003.

Messrs Real Estate Agencies
a partnership firm constituted
under the Indian Partnership Act,
and registered under No.97 in
the office of the Registrar of
Firms and having its office at
316, Govind Building, Mahatma
Gandhi Road, Panaji, through its
partner Mr. Kedar Kakodkar, major,
married, residing at Dona Paula,
Goa. .... Petitioners.

Versus

1. Deputy Collector and
Land Acquisition Officer,
Panaji, Goa.

2. The Executive Engineer,
W.D. III, P.W.D. (PHE),
St. Inez, Panaji, Goa. ..... Respondents.

Ms. Snehal Paranjape, Advocate for the Petitioners.

Mr. S.S. Kantak, Advocate General with Ms. L. Dharwadkar, Addl. Government Advocate for the Respondents.

CORAM: J. N. PATEL, J.

DATE: 17th NOVEMBER, 2006.

ORAL JUDGMENT:

Heard.

2. The short question which requires consideration in this matter is as to whether the petitioner who is the original claimant sought to produce certain documents in support of their claim for enhancement of compensation in Land Acquisition Case No. 153/1996. By Order dated 30th April, 2001 the learned Reference Court rejected the application on the ground that the applicant has moved the application after examining five witnesses as long back as on 20.9.98. Thereafter the respondents examined two witnesses and closed their case on 10.7.2000. When the matter was closed at this belated stage, they are coming up with this application for tendering documents which they claim to be in rebuttal on an issue as to whether the land under acquisition was notified as open site in the approved sub-division plan.

3. It is the contention of the petitioner that the issue has direct bearing on the merits of the case and therefore the parties should not be denied an opportunity to tender evidence in the form of documents, some of which came to their knowledge subsequently during the pendency of the proceedings in the High Court. The learned Advocate General pointed out that the documents sought to be produced are enumerated in paragraph 2 of the impugned order, whereas during the pendency of the Writ Petition, the petitioner has added to the list of documents and they should be

directed to first approach the Reference Court to include those documents which they seek to tender in the Reference Court in support of their case.

4. Insofar as the production of documents is concerned, no doubt the requirement is that the party should produce documents on which they rely in support of their claim at the initial stage, but there is no bar on the part of the party to tender documents during the proceedings till the proceedings are finally concluded. In a given and exceptional case, parties are even permitted to tender documents at the stage of appeal. Therefore, depriving the party of tendering evidence by way of documents in support of their claim, would be depriving them of an opportunity to substantiate their claim.

5. The learned AG submits that he has no grievance about the settled position of law in this regard, but then the claimant ought to have made out a case before the Reference Court and as the Reference Court was not satisfied by the explanation offered by the claimant, the application was rightly rejected.

6. This Court quash and sets aside the impugned order and permits the petitioner to file additional documents in support of their claim including documents which have been discovered during the pendency of

these proceedings before the Court and also lead oral evidence in support of the said documents (Exh.O to the petition). The respondents would have right to lead evidence in rebuttal.

7. With these directions the petition stands disposed of. The interim order passed by this Court stands vacated. Rule made absolute in the aforesaid terms with no order as to costs.

J. N. PATEL, J.

sl.